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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION**

JOSEPH BINKOSKI,)	Cause No.
)	
Plaintiff,)	Hon.
)	
v.)	
)	COMPLAINT
)	
UNITED STATES OF AMERICA)	
THROUGH THE UNITED STATES)	
DEPARTMENT OF HEALTH AND)	
HUMAN SERVICES)	
)	
Defendant.)	

COMES NOW, the above named Plaintiff, and for his cause of action
against Defendant, states and alleges as follows:

PARTIES, JURISDICTION AND VENUE

1. Plaintiff, Joseph Binkoski, is a resident of the state of Montana, residing in Billings, Montana.
2. Defendant, United States Department of Health and Human Services (DHHS), is a cabinet-level department of the United States Federal Government.
3. Venue for this action is proper in the Billings Division of this Court pursuant to 28 U.S.C. § 1402 because the subject motor vehicle accident occurred in Yellowstone County, Montana and Plaintiff is a resident of Yellowstone County.
4. Jurisdiction is proper in this Court because the case is being brought under the Federal Tort Claims Act codified at 28 U.S.C. § 1346(b)(1).
5. Pursuant to the requirements under 28 U.S.C. §§ 2401(b) and 2675(a), Plaintiff presented his administrative tort claim to DHHS on April 15, 2015, and a final denial letter was issued by DHHS on August 18, 2016.

PERSONAL INJURY CLAIM

6. Plaintiff restates and realleges each and every fact and allegation stated in ¶¶ 1-5.
7. On September 26, 2014, Plaintiff, Joseph Binkoski, was stopped at a stop light on the corner of Main Street and Lake Elmo Road in Billings, MT.

8. At the same time, Raven Goodluck, while in the course and scope her employment with DHHS, was driving a vehicle behind Plaintiff at a high rate of speed while texting on her cell phone.

9. As Ms. Goodluck approached the intersection of Main Street and Lake Elmo Road, she took her eyes off the road, looked down at her cell phone, and negligently rear-ended Plaintiff's vehicle at a high rate of speed.

10. The force of the impact sent Plaintiff's vehicle crashing into the vehicle that was stopped in front of him.

11. The subject accident and the serious personal injuries sustained by Plaintiff were directly and proximately caused by Ms. Goodluck's' negligence per se in violation of §§ 61-8-302(1) and 61-8-329(1), MCA, and negligence in failing to drive her vehicle in a careful and prudent manner, in following Plaintiff's vehicle more closely than was reasonable and prudent, and in a number of other particulars.

12. The subject accident and the serious personal injuries sustained by Plaintiff were also directly and proximately caused by Ms. Goodluck's' negligence per se in violation of City of Billings Ordinance No. 10-5521, Article 24-360 (a), for using her cell phone while operating a motor vehicle.

13. Given Ms. Goodluck was in the course and scope of her employment with DHHS at the time of the high speed rear end collision, DHHS is liable for her

negligence and negligence per se.

14. As a direct and proximate result of Ms. Goodluck's negligence and negligence per se in violation of §§ 61-8-302(1) and 61-8-329(1), MCA, and City of Billings Ordinance No. 10-5521, Article 24-360 (a), Plaintiff suffered serious personal injuries for which he is entitled to recover damages under Montana law.

RELIEF

WHEREFORE, Plaintiff prays for judgment against Defendant for all damages to which he is entitled under Montana law, including all costs and disbursements included herein, and any further relief which may be justified under the circumstances.

DATED this 25th day of August, 2016.

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By: /s/ Drew Blewett
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